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8 **UNITED STATES DISTRICT COURT**  
9 **DISTRICT OF NEVADA**  
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11 United States of America,  
12 Plaintiff,  
13 v.  
14 Ramon Valencia-Cruz,  
15 Defendant.  
16

Case No. 2:17-cr-00147-JCM-GWF

**Application and affidavit in  
Support of Order for the  
Issuance of Rule 17(b) and (c)  
Subpoena**

17 Ramon Valencia-Cruz moves under Federal Rules of Criminal Procedure  
18 17(b) and (c) and LCR 17-1 for the issuance of a subpoena for his BOP medical  
19 records. Undersigned requests that the subpoena be "issued" to the Federal  
20 Defender's Office for service by an FDO investigator or non-party rather than  
21 being forwarded to the U.S. Marshals Service for service.  
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23 Respectfully submitted,  
Rene L. Valladares  
24 Federal Public Defender

25 By: /s/ Erin Gettel

26 Erin Gettel  
Assistant Federal Public Defender

Affidavit of Counsel

In the State of Nevada and the County of Clark, Erin Gettel, being first  
duly sworn, deposes and says:

1. I am an Assistant Federal Public Defender for the District of Nevada and Defendant Ramon Valencia-Cruz's attorney.
2. Valencia-Cruz is unable to pay the fees and expenses of the out of state witness named below and is further unable to pay the cost of service of subpoena for this witness.
3. It is my professional judgment that Valencia-Cruz's BOP medical records are necessary to effectively represent him at his revocation of supervised release hearing, which is currently set for March 3, 2020.
4. Valencia-Cruz appeared on the instant petition to revoke his supervised release after completing a 27-month prison sentence in the Bureau of Prisons.
5. BOP medical staff told Valencia-Cruz that he required eye surgery or he would lose his eyesight.
6. That surgery was not provided, and his sight has continued to deteriorate.
7. One of the factors that the Court will consider in deciding the appropriate punishment for Valencia-Cruz's supervised-release violations is the need "to provide the defendant with needed educational or vocational training, *medical care*, or other correctional treatment in the most effective manner." 18 USC § 3583(e). Also, the Court must consider Valencia-Cruz's personal history and characteristics.

- 1 8. It appears that Valencia-Cruz has a serious medical condition that has  
2 deteriorated while he has been under the care of the BOP. To  
3 effectively represent him at the revocation hearing and to argue the  
4 appropriate sentence, undersigned must be able to provide proof of  
5 Valencia-Cruz's medical conditions and the BOP's capability of treating  
6 him (or not treating him) for those conditions.
- 7 9. These documents are not otherwise procurable reasonably in advance of  
8 Valencia-Cruz's revocation hearing by exercise of due diligence.
- 9 10. Undersigned cannot adequately prepare for the revocation hearing or  
10 effectively represent Valencia-Cruz at the revocation hearing without  
11 these records.
- 12 11. Witness:  
13 FOIA/PA Section  
14 Office of General Counsel, Room 924  
15 Federal Bureau of Prisons  
16 320 First Street, N.W.  
17 Washington, DC 20534  
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Erin Gettel  
Assistant Federal Public  
Defender

Subscribed and sworn to before me this 5<sup>th</sup> day of February,  
2020



Notary Public



1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF NEVADA  
3

4 United States of America,  
5 Plaintiff,

6 v.

7 Ramon Valencia-Cruz,  
8 Defendant.  
9

Case No. 2:17-cr-00147-JCM-GWF

Order

10 Upon motion of Ramon Valencia-Cruz pursuant to Rule 17(b) and (c) of  
11 the Federal Rules of Criminal Procedure, and good cause appearing therefore,

12 IT IS HEREBY ORDERED that the below witness must produce all  
13 medical records pertaining to Ramon Valencia-Cruz to the Federal Public  
14 Defender's Office, as set forth in the subpoena.

15 Witness:

16 FOIA/PA Section  
17 Office of General Counsel, Room 924  
18 Federal Bureau of Prisons  
19 320 First Street, N.W.  
Washington, DC 20534  
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23 DATED: February 20, 2020.

24   
25 UNITED STATES DISTRICT JUDGE  
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**CERTIFICATE OF ELECTRONIC SERVICE**

The undersigned hereby certifies that he is an employee of the Federal Public Defender for the District of Nevada and is a person of such age and discretion as to be competent to serve papers.

That on February 5, 2020, he served an electronic copy of the above and foregoing **Application and affidavit in Support of Order for the Issuance of Rule 17(b) and (c) Subpoena** by electronic service (ECF) to the person named below:

NICHOLAS A. TRUTANICH  
United States Attorney  
KIMBERLY M. FRAYN  
Assistant United States Attorney  
501 Las Vegas Blvd. South  
Suite 1100  
Las Vegas, NV 89101

/s/ Brandon Thomas  
Employee of the Federal Public Defender